

VZCZCXRO5917

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RUEHLN RUEHLZ RUEHPOD RUEHROV RUEHSR RUEHVK RUEHYG
DE RUCNDT #1184/01 3531710
ZNR UUUUU ZZH
O 191710Z DEC 07
FM USMISSION USUN NEW YORK
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3364
INFO RUEHXX/ARAB ISRAELI COLLECTIVE IMMEDIATE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE IMMEDIATE

UNCLAS SECTION 01 OF 02 USUN NEW YORK 001184

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E.O. 12958: N/A

TAGS: [PREL](#) [PTER](#) [UNSC](#) [SY](#) [LE](#)

SUBJECT: LEBANON TRIBUNAL: EXPERTS FROM KEY AND LIKELY
DONORS MEET TO DISCUSS NEXT STEPS

REF: A. USUN 1150

[1](#)B. USUN(WILCOX)-IO/UNP(REINEMEYER) E-MAILS--12/10/07

[1](#)C. USUN 1138

[1](#)D. USUN(WILCOX)-IO/UNP(REINEMEYER) E-MAIL-12/7/07

[1](#)E. USUN 1059

[1](#)1. SUMMARY: Following up on recent conversations held at ambassadorial level among major and likely donors to the Special Tribunal for Lebanon (STL) (see reftels), experts from USUN, France, Germany, the UK, and the Netherlands, as well as Lebanese PermRep Salam and representatives of the UN Office of Legal Affairs (OLA), met December 12 to discuss actions that will be needed to operationalize the STL and to establish a Management Committee in New York to oversee the Tribunal's work. As instructed (ref b), USUN/Legal and USUN/MR joined other donor delegations in "supporting in principle" the arrangements under which the Dutch Government will provide a building for use by the Tribunal (ref a). Based on that endorsement, the UN has sent a letter to the Dutch Government accepting the Dutch offer. However, no decision was taken as yet on whether to authorize refurbishment of the building based on a "basic package" of USD 10 million, or whether to support an "upgraded package" costing \$16.4 million (ref a). USUN/MR indicated that further itemization and clarification of expenses associated with each approach were needed before any decision could be taken.

[1](#)2. SUMMARY (Continued): Donor experts also reviewed in detail proposed terms of reference for a Management Committee comprising representatives of the Government of Lebanon, the Government of the Netherlands, and Member States which are "important contributors" to the STL. At this stage, the United States, France, Germany, and the UK would be the other members, along with a representative of the SYG. Agreement was reached on most issues in the draft ToR, which were based on similar terms of reference governing the Sierra Leone Special Court Management Committee, except decision-making (USUN sought consensus, France and the UK advocated "consensus, to every extent possible"). At USUN's suggestion, language still to be developed for inclusion in the ToR will attempt to hold the judges and other Court personnel accountable to the Management Committee for ensuring Court efficiency. Other meeting participants also accepted another USUN proposal calling for the Management Committee to ensure that the Special Tribunal is making optimal use of resources contributed by donor states in an "efficient, effective and accountable" manner. Experts also began initial consideration of proposed conditions of service for Tribunal judges and staff, but reached no conclusions.
END SUMMARY.

"Agreement in Principle" on
Use of Dutch Building

¶3. UN Office of Legal Affairs (OLA) Special Assistant Mark Quarterman, who chaired the discussion, asked meeting participants to approve the use of the AIVD Building in Leidscherdam being offered by the Dutch as the proposed site of the Special Tribunal for Lebanon. Quarterman said it was imperative the UN communicate approval of the Dutch offer to officials in The Hague so that GON officials can seek the endorsement of the Dutch cabinet at a December 21 meeting. USUN joined other delegations in "agreeing in principle" to the Dutch offer, subject to the provision of detailed information concerning the projected costs associated with refurbishment of the Dutch Interior Ministry building for use by the Tribunal. Quarterman read a draft letter that the SYG would send to the Dutch, accepting the offer in principle, after consultations with the major donors to the Tribunal. USUN clarified that no authorization was being given as yet concerning which option for building reconstruction should be pursued -- the "basic package" approach costing approximately \$10 million for construction of a courtroom, holding cells, security upgrade, and other modifications, or an "upgraded package" costing \$16.4 million that would remodel the building as though it were new.

Proposed Terms of Reference
for Management Committee

¶4. Meeting participants next turned their attention to the proposed terms of reference (ToR) for the STL Management Committee, which would oversee the work of the Tribunal. Quarterman said the ToR were modeled on those governing the work of the Sierra Leone Special Court Management Committee. (Note: The U.S. is a member of the SLSC MC. End note.) Agreement was reached on setting an overall limit of ten

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members on the Committee, similar to the Sierra Leone model. Provision also was made to replace any member who might withdraw from the Committee, as long as the proposed replacement satisfies the criteria of being an "important contributor" to the STL.

¶5. Participants did not reach consensus on proposed decision-making by the Management Committee. USUN argued that all decisions should be taken solely on the basis of consensus, while France and the UK sought to clarify the consensus approach by adding the phrase, "to every extent possible," as was used in the ToR for the Sierra Leone Management Committee. USUN noted that it would be unacceptable for U.S. officials to permit others to decide how funds voluntarily contributed by the USG should be spent.

In that regard, a consensus approach was mandatory. The British and French acknowledged the U.S. concerns, but warned that requiring consensus decisions in the Committee could result in stalemate if one or more members disagreed with the others as to a particular policy or course of action to be pursued. The matter was left unresolved, pending further discussion at the next donors' meeting.

¶6. Other participants reacted favorably to two USUN proposals for the inclusion of additional Management Committee functions -- one that would hold the judges and other Court personnel accountable to the Management Committee for ensuring Court efficiency; and the other would task the Management Committee with ensuring that the Special Tribunal was making optimal use of resources contributed by donor states in an "efficient, effective and accountable" manner. Final endorsement of these and other suggested amendments to the draft ToR is anticipated when donors reconvene for their next meeting.

¶7. Experts also began initial consideration of proposed terms of reference for the judges and other personnel needed to manage the work of the Tribunal. OLA consultant Robin

Vincent, who once served as Registrar for the Sierra Leone Special Court and who would appear to be a likely candidate to be selected as the Registrar for the Special Tribunal, described in more detail the four compensation models he had previewed at the December 5 donors' meeting (refs C): one that would provide a basic salary and lump sum amount without most benefits ("Sierra Leone" model); a second that would treat staff in The Hague and Beirut differently ("hybrid" model); a third that would provide all staff with the same entitlements, but treat those serving in The Hague differently from those in Beirut (family vs non-family duty stations); and a fourth that treated all staff as being based in The Hague, enjoying the same entitlements, with those working in Beirut considered to be on travel status. Vincent noted that Dutch domestic laws required that 13 separate social security requirements be met, either through participation in the Dutch social security scheme, or through a comparable program to be established by the Tribunal. USUN, joined by representatives from Germany and the UK, requested additional time to study the compensation proposals before taking any decisions.

18. OLA U/SYG Michel has requested that donor state experts meet December 18 to continue consideration of pending issues, with a view to finalize as many decisions as possible. Donor ambassadors also are scheduled to meet on December 18, following the experts meeting.

Khalilzad